IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 2717 of 2006(W)

PETITIONER:

CHERIYA KANNOTH ABDULLA KUTTY HAJI,
C.K.HOUSE, MOODADY, KOYILANDY,
KOZHIKODE.

BY ADV. SRI.B.KRISHNAN

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
PUBLIC WORKS DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SOUTHERN RAILWAY, REPRESENTED BY
GENERAL MANAGER, SOUTHERN RAILWAY,
MADRAS.

3. ROADS AND BRIDGES DEVELOPMENT
CORPORATION, REPRESENTED BY ITS MANAGING DIRECTOR,
2ND FLOOR, PREETHI BUILDINGS, PALARIVATTOM, KOCHI.

4. THE LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM.

5. THE DISTRICT COLLECTOR,
KOZHIKODE.

BY ADV. SRI.S.K.MURALEEDHARAN KAIMAL, SC,RAILWA
SRI.KURIAN GEORGE KANNAMTHANAM (SR.)
GOVERNMENT PLEADER
SRI.K.V.SOHAN
SMT.SANJANA R.NAIR
SMT.SREEJA SOHAN.K.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1 **TRUE COPY OF THE 4(1) NOTIFICATION DATED 24.6.2003 PUBLISHED IN MATHRUBHUMI.**

EXHIBIT P2 **TRUE COPY OF THE G.O(RT.) NO.586/2002/PWD DATED 4.7.2002.**

EXHIBIT P3 **TRUE COPY OF THE JUDGMENT IN W.P(C) NO.37577/2003 DATED 24.5.2004.**

EXHIBIT P4 **TRUE COPY OF THE GAZETTE NOTIFICATION DATED 2.9.2004.**

RESPONDENTS' EXHIBITS: **NIL**

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 2717 OF 2006

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Dated this the 22nd day of March, 2007

J U D G M E N T

The only question arising for consideration in this Writ Petition is whether Section 6 declaration was issued beyond the period of one year of Section 4(1) Notification under the Land Acquisition Act. According to the petitioner, the Notification under Section 4(1) of the Act was published in the official Gazette on 24.6.2002 and the declaration was published on 2.9.2004, which is beyond the period of limitation.

2. The 5th respondent, District Collector, Kozhikode has filed a counter affidavit sating that the last publication of Notification under Section 4(1) of the Act was made on 6.9.2003 by affixing notice in the notice board of the Village Office and the declaration was published on 2.9.2004 and published in the Extraordinary Gazette on 2.9.2004 and subsequently published in local dailies in Mathrubhumi on 4.10.2004 and in Deshabimani on 5.10.2004 and the same was affixed in the notice board of the

Village Office on 11.10.2004. In the circumstances, I do not find any reason to disbelieve the affidavit filed by the District Collector herself. It is settled position of law that when statute prescribes different modes of publication than one, the authority can rely only the last mode of publication. In this case it was averred that notice was published in the notice board of the Village Office on 6.9.2003 and the declaration was effected within a period from that date. It is also to be noted that making of declaration and publication are different. Even if the publication of the declaration is beyond one year after the date of publication of Section 4(1) Notification, that has to be treated as valid.

In the result, there is no merit in the Writ Petition and it is accordingly dismissed.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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M.F.A. NO. OF

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J U D G M E N T

15TH MARCH, 2007